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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,149	07/10/2003	Marc M. Jalisi	ACS 64748 (1331P2D2)	4067

24201 7590 12/15/2004

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EXAMINER

HO, UYEN T

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/618,149

Applicant(s)

JALISI, MARC M.

Examiner

(Jackie) Tan-Uyen T. Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 11/10/03 fails to comply with 37 CFR 1.98(a)(1), which requires a list of all patents, publications, or other information submitted for consideration by the Office. Form 1449 is missing.

Claim Rejections - 35 USC § 102

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 39-42 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Armini (5,919,126). Armini discloses a cylindrical stent including a substrate being made from nitinol, a first cladding layer being chromium, titanium, vanadium, iron, cobalt or nickel and a second cladding layer being radiopaque material as claimed. Although, Armini does not disclose the stent having interconnecting element connecting adjacent cylindrical elements as claimed, in which is well known in the art. Therefore, it would have been obvious matter of design choice to modify the Armini's cylindrical stent by having interconnecting element connecting adjacent cylindrical elements as claimed since applicants has not disclosed that having interconnecting element connecting adjacent cylindrical elements solves any stated problem or is for any particular purpose

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and it appears that the stent would perform equally well in form of tubular mesh or in form as claimed.

4. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Armini '126 in view of Delfino et al. (6,264,595). Although, Armini does not disclose the transition layer/first cladding layer being stainless steel, attention directed to the Delfino et al. disclose the first cladding layer being stainless steel (col. 8, claim 4). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use stainless steel as the transition layer or adhesion layer for Armini's stent wherein so doing would amount to mere substitution of one material for an other within the same art that would perform equally well in Armini's stent.

5. Claims 39-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Delfino et al. disclose all the limitation of the claims except a stent in form of cylindrical elements connected by interconnecting elements. Delfino et al. suggest the stent can be in any shape (col. 4) and the stent in form of cylindrical elements connected by interconnecting elements are well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the stent having the elements as claimed for Delfino et al.'s invention wherein so doing would amount to mere substitution of one stent for an other within the same art that would perform equally well in Delfino et al.'s invention.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to (Jackie) Tan-Uyen T. Ho whose telephone number is 571-272-4696. The examiner can normally be reached on MULTIFLEX Mon. to Sat..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ANHTUAN NGUYEN can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



(Jackie) Tan-Uyen T. Ho
Patent Examiner
Art Unit 3731

December 10, 2004